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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,566	05/10/2001	Manfred T. Reetz	STUDIEN 282-	6932

7590 02/26/2003

Norris McLaughlin & Marcus  
220 East 42nd Street 30th Floor  
New York, NY 10017

EXAMINER

LOVERING, RICHARD D

ART UNIT	PAPER NUMBER
1712	8

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/831,566	REETZ ET AL.
Examiner	Group Art Unit	
LOVERING	172	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

**P r i d for Response**

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

Responsive to communication(s) filed on DEC 26, 2002.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disp sition of Claims**

Claim(s) 21-45 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 21-24, 26-30, 32, 33, 35-39, 41 AND 44 is/are rejected.

Claim(s) 25, 31, 34, 40, 42, 43 AND 45 is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

**Attachment(s)**

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of References Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other \_\_\_\_\_

**Office Acti n Summary**

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 21-24, 26-30, 32, 33, 35 and 37 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Moumen et al. "New Synthesis of Cobalt Ferrite Particles in the Range of 2-5 nm . . ." Chem. Mater. 1996, 8, 1128-1134, esp. Abstract; and page 1129, II. Experimental Synthesis.

3. Claim 36 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Moumen et al. above. The especially pertinent portions of Moumen et al. are pointed out in the preceding paragraph. While Moumen et al. may not disclose conducting their process at a temperature between 50 and 90°C, it would have been obvious to one skilled in the art at the time applicants' invention was made to do so to increase the rate of hydrolysis and/or condensation. It is well-settled that choice of a suitable or optimum temperature, absent a showing of criticality, is within the expected skill of a worker in the art. See In re Aller et al., 220 F. 2d 454, 105 USPQ 233.

4. Claims 38, 39 and 41 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Bonnemann et al. WO 96/17685, esp. Examples 5, 6 and 8-10.

5. Claim 44 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonnemann et al. above in view of Day et al. 4,197,187. The especially pertinent portions of Bonnemann et al.

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are pointed out in the preceding paragraph. While Bonnemann et al. don't specifically disclose incorporating their metallic colloids into sol-gel supports, it would have been obvious to one skilled in the art at the time applicants' invention was made to use a sol-gel alumina of Day et al. Example as the support in the process of Bonnemann et al. in lieu of their carbon support to realize the advantages pointed out by Day et al. (column 4, lines 46-88) i.e., better selectivity and improved yields in use in hydrocarbon conversion. Note that Bonnemann et al. (page 6, lines 6-11) contemplate the use of metal oxide carriers.

6. Applicants' arguments filed December 26, 2002 have been fully considered but they are not deemed to be persuasive. As to the rejections based on Moumen et al., authors use iron chloride, cobalt acetate, aqueous methylamine and sodium dodecyl sulfate and although they may use oil-in-water micelles, they use essentially the same process, i.e. hydrolysis and/or condensation, and get essentially the same product as applicants. Applicants' product claims don't require any particular amount of water, or even water at all. As to the rejections based on Bonnemann et al., applicants' argument overlooks the fact that claims 38, 39, 41 and 44 herein call for metal colloids.

7. Claims 25, 31, 34, 40, 42, 43 and 45 are objected to as being dependent upon a rejected base claim, but would be

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allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record doesn't disclose or fairly suggest the composition of claim 25 or the processes of claims 31, 34, 40, 42, 43 and 45 herein.

9. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc  
February 20, 2003

*Richard D. Lovering*  
RICHARD D. LOVERING  
PRIMARY EXAMINER  
GROUP ~~100~~ 1700